



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

September 17, 1993

Ms. Gayle Gordon  
Texas Alcoholic Beverage Commission  
P. O. Box 13127  
Austin, Texas 78711-3127

OR93-563

Dear Ms. Gordon:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code, formerly V.T.C.S. article 6252-17a. Your request was assigned ID# 21588.

The Texas Alcoholic Beverage Commission ("TABC") received a request for "a copy of the in-house test for enforcement officers taken by Michael R. Hodges, who was a TABC agent in the Bryan office in 1989 and 1990. . .[including] subsequent grades, notations, additions or substitutions relating to that test." You contend that the TABC may withhold this information based on section 3(a)(11) of V.T.C.S. article 6252-17a, which is now section 552.111 of the Government Code.

Section 552.111 excepts from required public disclosure

[a]n interagency or intraagency memorandum or letter that would not be available by law to a party in litigation with the agency. . .

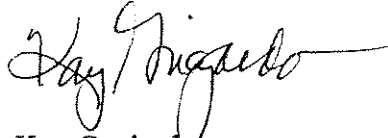
The Third Court of Appeals recently addressed the proper scope and interpretation of this provision. *See Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408 (Tex. App.--Austin 1992, no writ). As a result of that decision, this office reexamined its past rulings construing this exception. *See* Open Records Decision No. 615 (1993). Open Records Decision No. 615 concluded that section 3(a)(11) of V.T.C.S. article 6252-17a excepts from required public disclosure only those internal agency memoranda consisting of advice, recommendations, and opinions that pertain to the policymaking functions of a governmental body. *See id.* at 5. That decision also concluded that a governmental

body's policymaking functions do not encompass internal administrative and personnel matters. *See id.* Furthermore, the exception does not apply to purely factual information that is severable from the opinion portions of internal memoranda. *Id.*

The information at issue contains no advice, opinion or recommendation. Moreover, a particular employee's test score is a personnel matter and does not pertain to the policymaking function of the TABC. Accordingly, we conclude that you may not withhold the requested test scores pursuant to section 552.111 of the Open Records Act.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact this office.

Yours very truly,



Kay Guajardo  
Assistant Attorney General  
Open Government Section

KHG/rho

Ref.: ID# 21588

Enclosures: Open Records Decision No. 615

cc: Ms. Christy Hoppe  
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(w/o enclosures)